



The

COMPLIANCE CONNECTION



Your liquor law link to the ABC!!

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The Utah Department of Alcoholic Beverage Control

Late Summer 2001

New Alcoholic Beverage Advertising Rules

By Earl Dorius

Introduction. On August 9, 2001, the Utah Alcoholic Beverage Control Commission announced new guidelines for the advertising of alcoholic beverages in Utah. To comply with the terms of a preliminary injunction issued by a federal district court in a case involving a constitutional challenge to some of Utah's alcohol advertising statutes, the commission has issued several emergency rules. The rules interpret Utah's advertising statutes and rules in a manner to preserve their constitutionality, and to identify those statutes and rules that the state will not enforce because of the injunction.



These emergency rules are valid only for 120 days. In the meantime, the commission is inviting public comment on the new rules. Information received will assist the commission in preparing a permanent set of rules to take effect in early December.

The commission seeks the views of the alcoholic beverage industry, retail licensees, media and the general public. If you are aware of any reports, studies, surveys, etc. on alcoholic beverage advertising, please include them in your response. *Written comments must be received at the DABC no later than October 8th.*

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Additionally, the commission will hold a *public hearing on the rules on Friday, September 21st at 9:00 a.m. at the department administrative building, 1625 South 900 West, Salt Lake City.* Anyone who wishes to speak at the hearing must notify the commission secretary at 977-6800, and submit any written materials in support of their presentation no later than Wednesday, September 19th. Verbal presentations should be limited to three minutes in length.

The main advertising guidelines are now found in rule R81-1-17. The commission also repealed rule R81-1-8 in its entirety, and made technical amendments to rules R81-3-9 and R81-4A-12 to make them consistent with the new guidelines in rule R81-1-17. Copies of the full text of these rules may be obtained, upon request, from the DABC, or on its website at www.alcbev.state.ut.us.

Advertising Guidelines

In 1996, the commission, after holding extensive public hearings, established guidelines for the advertising of beer (3.2% alcohol by weight). The new rules issued on August 9, 2001, apply those same guidelines to the advertising of liquor, wine and heavy (full-strength) beer products. Those guidelines are:

ALCOHOLIC BEVERAGE ADVERTISING MAY:

- Reference product availability, price, and factual information regarding the product.

ALCOHOLIC BEVERAGE ADVERTISING MAY NOT:

- Violate federal laws
- Contain obscenity or indecency
- Refer to, portray or imply illegal conduct or activity except in the context of public service ads on the dangers, hazards, and risks of irresponsible or underage drinking
- Encourage over-consumption or intoxication or overtly promote increased consumption
- Advertise any promotional scheme such as "happy hour" or "all you can drink for •"
- Encourage or condone drunk driving
- Depict the act of drinking
- Promote or encourage the sale to or use of alcohol by persons under 21
- Be directed or appeal primarily to minors (the rule lists several examples such as publication in school, college or university magazines or newspapers, or at children's events, or use in ads of childhood figures, children, actors or entertainment figures that appeal to children, etc.)
- Contain claims that one cannot obtain social, professional, educational, athletic, or financial success or status without consuming alcohol; or contain claims that one cannot solve

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Advertising Guidelines

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social, personal, or physical problems without such consumption

- Offer alcoholic beverages to the public without charge
- Require the purchase, sale or consumption of alcohol to participate in any promotion program or other activity
- Imply by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical prowess, athletic ability, social welfare, or capacity to enjoy life's activities

The Impact of the New Rule on the Alcoholic Beverage Industry and DABC Licensees.

Industry. Manufacturers and suppliers of all alcoholic beverages may now advertise their products in newspapers, magazines, other print media, and on radio, television, and billboards. The advertising of distilled spirits on television and radio, although not prohibited, has been the recent subject of review by the Federal Communications Commission, the Federal Trade Commission, and Congress. In the past, most distilled spirits companies have voluntarily chosen not to advertise on radio and television, and the major broadcast networks have not accepted such advertising.

All trade practice laws, including "tied house" restrictions, remain in full force and effect except that any product displays, signs and retailer advertising specialties that may be furnished by an industry member to a retailer may be openly displayed and may be visible both on and off of the retailer's premises. All laws which prohibit an industry member from paying a retailer to advertise its products, or from sharing the cost of an advertisement, remain in full force and effect.

All laws that prohibit an industry member from giving away its alcoholic products (except for testing, analysis and sampling purposes to the extent authorized by Utah law) remain in full force and effect. All laws that prohibit an industry member from engaging in any advertising or promotional scheme that requires the purchase, sale or consumption of an alcoholic beverage in order to participate in the promotion, or which involve providing money or something of value to a person based on their purchase, display, use, sale, or consumption of an alcoholic beverage remain in full force and effect.

All laws which establish guidelines for alcoholic beverage industry members (or retailers) to sponsor or underwrite athletic, theatrical, scholastic, artistic, or scientific events remain in full force and effect except that:

- Any advertising of alcoholic beverages at the event shall comply with the guidelines of the new advertising rules.
- Industry members (or retailers) may sponsor a theatrical, artistic or scientific event that involves the display of drinking scenes.
- Industry members (or retailers) may not sponsor an event

that takes place on the premises of a school, college, university, or other educational institution.

The department and its state stores and package agencies (other than package agencies in local wineries and "type 4" package agencies utilized by hotels, resorts, and other facilities to provide room service) cannot engage in the advertising or promotion of alcoholic beverage products other than by way of providing printed price lists to the public, and providing price posting and floor stacking within its facilities. These facilities cannot accept or display point-of-sale advertising from industry members, and cannot display liquor products or price lists in windows or showcases visible outside the premises.

Restaurant Liquor Licensees. Changes in restaurant operations are as follows:

- Alcoholic beverage menus such as wine lists may be located on the patron's table.
- Alcoholic beverages may be listed on the food menu or an alcoholic beverage menu. A separate alcoholic beverage menu is not required.
- Servers may ask a patron if they would like an alcoholic beverage.
- Signs advertising the availability of alcoholic beverages may be displayed both inside and outside the restaurant. This allows for the posting of a restaurant's wine or alcoholic beverage list on the door or window of the restaurant.
- Signs advertising alcoholic beverage brands may be displayed by the restaurant and may be visible both inside and outside the restaurant.
- Restaurant advertising in newspapers, magazines, phone book yellow pages, other print media, and on radio, television and billboards may reference the availability of alcoholic beverages.
- Liquor, wine, heavy beer and beer products may be displayed where they are visible to patrons. (However, state law still restricts over the bar service, and patrons may not be seated where alcoholic beverages are stored or dispensed.)

Private Club Licensees. The statute (32A-5-107(23)) and rule (R81-5-5) that restrict a private club from engaging in public solicitation or advertising calculated to increase its membership remain in full force and effect. Under rule R81-5-5, any advertising by a club must clearly identify the establishment as being "a private club" and state that the information is being provided for its members. The rule prohibits reference to "guests", "visitors", "happy hours" or "free food or beverages". It also prohibits club advertising on highway billboards. The use of flyers to advertise on another club's premises has also been prohibited by way of a department directive issued December 17, 1998.

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Advertising Guidelines

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Rule R81-5-5 does allow clubs to use public advertising to provide information to club members relative to food items, entertainment and club events. Under the new advertising rules, a club may also:

- Display signs advertising the availability of alcoholic beverages visible both inside and outside the club. This allows for the posting of a club's wine or alcoholic beverage list on the door or window of the club.
- Display signs advertising alcoholic beverage brands visible both inside and outside the club.
- Reference the availability of alcoholic beverages in any advertising format allowed in rule R81-5-5 (television, radio, print media, and signs at the site of the club including any building or resort facility where the club is located).

On and Off Premise Beer Retailers. The new advertising rules make no changes to existing laws regulating beer advertising.

Single Event Permittees. Under the new advertising rules, public advertising of the event may reference the availability of alcoholic beverages at the event.

Local Breweries, Wineries and Distilleries. These manufacturers may now advertise their products under the guidelines of the new rules. Also, a package agency, located on the premises of a local winery, may display its products and price lists in windows and showcases visible both on and off the premises of the winery.

On-Line Ordering for Licensees is More User Friendly



By Neil Cohen

The on-line ordering system for licensees has been upgraded and is available for licensees with web access. The system offers many advantages. It is faster and more efficient than phoning, faxing, or mailing. And, as you place your order, you can see the on-hand stock availability.

Here's an update of how on-line ordering works:

1. Call Anita at Stores and Agencies Support: 801-977-6825 or 800-333-2921.
2. She will set you up on the system with your own login and password (user selected). In order use this system, you will need to provide an e-mail address to receive confirmation and feedback from the stores (for example if they are out of an item).
3. Launch our website from your browser: www.alcbev.state.ut.us
4. Click (select) "on-line services" and then select "licensees" from the pop-up menu. If you are a package agency, select "package agencies" from the on-line services pop-up menu.
5. At the log-in screen enter your log-in name and password.
6. If you are a package agency, you can order from the warehouse, or the store of the your choice.
7. If you are a licensee, you can choose the store you will be ordering from.
8. The system will then prepare and display an order form based on your history of past orders (from the store you selected).
9. Tab through the list (using the TAB key) and enter the quantities of the items you wish to order.
10. The order form will show availability of stock on-hand. If an item is unavailable it will be "grayed out" and you will not be able to enter a quantity.
11. The system will also alert you if you order more than the quantity that is available.
12. At the bottom of your order list, there will be an entry area for new items that you have not ordered before. You will have to enter the code number for the items. If you don't have the current list, products and code numbers can be found on the website too. At the home page (www.alcbev.state.us) select "products", then "products & prices".
13. As you add a new item, the system will show stock on-hand availability for the new item.
14. When you have finished entering quantities and/or items, click "place order".
15. This takes you to a confirmation screen with a list of only the items you have just ordered. You will see the total number of bottles entered (or the total number of cases ordered if you ordered as a package agency from the warehouse) and the dollar amount of the order. You may add or make changes at this point by clicking the appropriate box at the bottom of the form on the screen. This takes you back to the order form. Enter the changes and click "place order" again to get back to the confirmation screen. When you are satisfied, click "approve order". This places your order. **Before** clicking on "approve order" you may cancel your transaction at any time by just closing your browser.
16. The system then assigns your order a number, displays an invoice, transmits the order to the store (or warehouse) to be filled, and sends you an e-mail confirmation.

If you have any questions, call the DABC and ask for Stores and Agencies Support (Anita or Greg).

The DABC Website

Our website, www.alcbev.state.ut.us, has lots of information about the liquor laws, the Olympics, stores and agencies, products and prices, server training, interesting links, and more. Some pages are still under construction, and new information and services will be added as they are developed. If you have any comments or suggestions, please e-mail us at abcmain.hotline@state.ut.us. E

Information you can Use

reprinted from *STATE CAPITALS Newsletters*, July 23, 2001

New Jersey Shore Bar Owners Get Primer on Club Drugs and How to Spot 'em

Club drug users sometimes show tell-tale signs: they suck on baby pacifiers, they drink bottled water, they twirl glowsticks around in front of their eyes.

The pacifiers are to fight off the urge to grind teeth, which Ecstasy users tend to do when they're high. The bottled water, preferred over alcohol because booze might counteract the chemical they've ingested, is for combating dehydration, another frequent side effect.

As for the glowsticks, they are playthings that can make users see "trails," a kind of hallucination.

The owners, managers and employees of a handful of New Jersey shore bars learned all about such tip-offs Friday during a two-hour seminar aimed at educating them about how to spot use and keep it out of clubs.

About three dozen police officers also attended the event, learning about the scientific, legal and sociological aspects of Ecstasy, keta- mine, GHB and other drugs.

"These drugs have been present in the northern (New Jersey) counties for a while, but we're seeing them down here at the Shore more often," said Cape May County

Prosecutor David Blaker. "We want to educate the tavern owners and the rank-and-file police officers about what to look for."

Club owners have a stake in knowing what's going on. In addition to potential lawsuits stemming from drug overdoses or accidents involving impaired customers, prosecutors can seize a bar or

"Look at the narco-economics of it: It costs less than 50 cents to produce a tablet of Ecstasy, but it sells for \$25 to \$35."

tavern if investigators can prove the owners condoned or participated in the use of club drugs there, authorities say.

There are tell-tale signs of that, too, according to Michael Hickman, an investigator with the Cape May County Narcotics Task Force.

Sometimes, bar owners or rave promoters - anticipating thirsty Ecstasy users - will shut off the cold-water taps in the restrooms and sell bottled water for up to \$12 a bottle, he said.

Bottled water is also used to carry diluted quantities of some club drugs, he said.

New York and New Jersey

are the principal markets for the 3.5 million Ecstasy tablets being smuggled into the U.S. every week, U.S. Drug Enforcement Agency Special Agent Earl Fielder told the group.

"This is not going to just go away" Fielder said. "Look at the narco-economics of it: It costs less than 50 cents to produce a tablet of Ecstasy, but it sells for \$25 to \$35."

Among the bar owners or employees present were representatives of the Deauville Inn in Strathmere, Ship 'n Shore in Wildwood and the Springfield Inn and La Costa lounge, both in Sea Isle City.

"I was ignorant about this stuff, so I wanted some information to give to my servers," said Ken Brown, a manager at the Deauville Inn.

"We all came to learn more about it, because we know it's a problem," said Lou Conte, manager of La Costa, which sent three people to the seminar.

Some of the club representatives said they were disappointed more of their peers didn't turn out. "There's 87 liquor licenses in Wildwood, and three places are represented here" said Joseph Palombaro, general manager of Shaker's. Then again, staging the seminar at 10 a.m. - about four hours after many bar employees finish work - made it difficult for some to attend, he said. E

FYI - some ABC's:

A. Ordering procedures at the "Restaurant and Club Store" B. Price lists C. DABC Label ("Sticker") on Bottles

By Stephne Hanson

A. This is a reminder on certain ordering procedures for licensees who order from the club and restaurant warehouse. Please call your order in between the hours of 8:30 am to 4:30 pm, fax at 801-975-4044 or e-mail at store33.abcmain@state.ut.us. (On-line ordering is also available. See related article in this newsletter). Please include the **CSC** (code number of the product) description and the number of bottles. Also, please include your DABC license number in your order.

If you are ordering in large quantities, please place your order the day before by noon. This will ensure your order will be complete and on time. Orders need to be picked up by 4:30 pm.

B. Our price list is readily available on our web site: www.alcbev.state.ut.us. However, if you would like to be put on our mailing list for the monthly price lists, you can call Lorrie Hill at the main office (801-977-6827). These price lists have the code numbers you need for

ordering, prices and status changes. There are three different retail price lists available: by alphabet, category, and code number.

C. What if a licensee receives a bottle that is not stamped with the DABC label (sticker)? State law makes it unlawful (class B misdemeanor) for any person to possess any bottle of liquor, wine or heavy beer unless it has affixed to it the official DABC label. Therefore, every bottle purchased must have a DABC label on it. The label should be on the bottle - every bottle - not just the box it came in. If you receive a bottle without the DABC label, immediately contact the store where you purchased the product and arrange to return the bottle to receive the DABC label.

The label could be one of many colors; yellow, green, orange, pink etc. If you have gift sets or bottles wrapped in tissue inside boxes, the bottles themselves should have a DABC label on them.Ē

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Restaurant Liquor License Renewals

Criminal History Information Requirement

By Tom Zdunich

By now, holders of restaurant liquor licenses should be well into filling out the renewal application forms. You will see a brilliant green cover sheet with information about the new criminal background check requirement.

This is the first renewal year for restaurants in which the licensee has to have criminal background checks done on **new** managers, or **new** officers and directors listed on "form C" in the renewal packets. This includes those who were hired or appointed *since* the last renewal, or, in the case of new licensees who were licensed *after* November 1, 2000, since you received your license.

We sent samples of the criminal background check forms in the packet for both residents and non-Utah residents. If you need additional forms, please call

us and we'll send them to you. Utah residents should request criminal history information from The Utah Bureau of Criminal Identification (BCI) on the forms we have provided.

If you have web access, you can download the BCI forms at BCI's website. On the forms page (<http://www.bci.state.ut.us/bciforms.html>) forms can be found under the "right of access application". The forms themselves are at <http://www.bci.state.ut.us/roa.pdf>. However you need the Adobe Acrobat Reader which you can download from the site too.

New managers, officers and directors who are not Utah residents will have to obtain their criminal history information from the National Crime Information Center (NCIC) of the FBI. This will take longer to process.

Renewal Reminders

Remember, you must send in your completed renewal application by **Monday, October 1, 2001**. This deadline is set by the legislature and we cannot extend it. If you miss this deadline, you may not renew and you will have to re-apply all over again for a restaurant license. This means you will have to pay another \$300 application fee in addition to the \$300 license fee. Please do not wait until the last minute.

You may either hand deliver (by 5:00 pm on **October 1, 2001**) the completed renewal or we will accept a postmark up to and including **October 1, 2001** as timely. You do *not* have to pay extra for overnight mail to get it here by **October 1, 2001**. If for some reason you bring your renewal to the post office on **October 1, 2001**, make sure the post office puts that day's postmark on your envelope; right there, in front of you, at the window, while you watch. If your local post office is closed, the

Salt Lake airport post office is open 24 hours. As long as you get there before midnight on the 1st, you can get that date's postmark.

Finally, we send you a separate notice *if* you have delinquent taxes or are otherwise not in good standing with the Utah Tax Commission (sales tax/payroll withholding), Labor Commission, Division of Industrial Accidents (workers compensation coverage), or The Department of Workforce Services (unemployment insurance tax requirements). We provide you with phone numbers and contacts in each agency. Please take action to clear up the delinquency as soon as possible. Your license cannot be renewed if the delinquency is not cleared. If you have any questions about your license renewal, please contact the DABC licensing and compliance office. E

The Alcoholic Beverage Control Commission meets monthly. The next three meetings are scheduled on the fourth Wednesday of each month as follows:

September 26, at 2 p.m.

October 31, 2001 at 2 p.m.

November 28, 2001 at 2 p.m.

The meetings are open to the public and are held in the board room at the DABC administrative office building; 1625 South 900 West, Salt Lake City. All interested persons are welcome to attend.

Meeting dates and times are subject to change.

Licensing Activity

By Chris Johnson

NEWLY LICENSED ESTABLISHMENTS

April, May, June, July, & August

RESTAURANTS (27)

Applebee's, Tooele
Aspen Grill, Brigham City
Boccia's D' Italia, South Ogden
Bonsai Japanese Steakhouse, Sandy
Buca Di Beppo, Midvale
Coral Canyon Golf Course, Washington
Desert Bistro, Moab
Desert Star Cowboy Steakhouse, Murray
Diamond Lil's, Sandy
Firehouse BBQ Grill, Murray
Frontier Village, Richfield
Globe Café, Salt Lake City
Grandma's Kitchen, Monticello
Hayashi Japanese Restaurant, Midvale
Horny Toad Bar & Grill, Ticaboo
Lone Star Steakhouse, Salt Lake City
McGrath's Fish House, Orem
Melina's Mexican Restaurant, Salt Lake City
Mi Ranchito, American Fork
Panama Grill, St. George
Red Iguana, Salt Lake City
Roberts Restaurant & Deli, Salt Lake City
Rocking V Café, Kanab
Ruby River Steakhouse, Sandy
Stone Ground, Salt Lake City
Stonebridge Café, West Valley City
Webby's Mountain Grill, Ogden

PRIVATE CLUBS (21)

Club Creation, Park City
Club Rio, Moab
Club XS, Vernal
Cruzrs, Salt Lake City
Doc Henry's, Salt Lake City
Eagles 3951, Hurricane
Getaway, Parowan
Glenwild Golf Club & Spa, Park City
Lazy Moon, Salt Lake City
Lofte's, Salt Lake City
Ram's Horn, Duck Creek
Rhino's – A Bar, Murray
Rock Bottom, Midvale
Sportsman Lounge, Moab
Summit Lounge, Layton
The Tunnel, Salt Lake City
Third & Main, Salt Lake City
Triangle Lounge, Mt. Pleasant
Urban Lounge, Salt Lake City
Venus Club, Tooele
Xscape, Salt Lake City

ON-PREMISE BEER (38)

Bacino's Deli & Market, Sandy
Carmack's Food Service, North Salt Lake
Cedar Springs Marina, Dutch John
Coconut Point, Kearns
Cowboy Grub, Draper
Doug's Bar & Grill, East Carbon
El Monte Café, Ogden
Entrada @ Snow Canyon Golf Course, St. George
Fat Cats, Salt Lake City
Fire House Pizzeria, Logan
Formosa Grill, Salt Lake City

Golden Tee Grille, Ogden
Grandma's Taco's & Burrito's, Ogden
Juanita's Mexican Food, Ogden
Juhl Haus Deli & Market, Salt Lake City
La Hacienda #2, Salt Lake City
Maple Gardens, South Ogden
Miguel's Baja Grill, Moab
Nibley Park Café, Salt Lake City
Oasis Restaurant, Logan
Paradise Golf Resort, Fillmore
Penny's, Stockton
Pier 49 San Francisco Sourdough Pizza, Park City
Plaza Billiards, West Valley City
Porcupine Pub & Grill, Salt Lake City
Ray's of Moab, Moab
Sampan II, West Jordan
Stampede, Centerfield
Stoddard Inn, Stoddard
Sultan's Tavern, Logan
Taqueria Xochilt, Orem
Timpanogos Tavern, Heber City
Tool Box, Ogden
Toro Moro Mexican Restaurant, Washington
Trails End Saloon, Panguitch
Utah Food Services Southtowne, Sandy
Wagon Wheel, Grantsville
Zonkers, Sugarhouse

LICENSES AVAILABLE (as of August 24, 2001)

Restaurants = 3
Private Clubs = 16
On-premise Beer = no quota

LICENSES RELINQUISHED

April, May, June, July, & August

RESTAURANTS (19)

Bristlecone @ Holiday Inn, Cedar City
Cancun Annies Mexican Restaurant, Layton
Diamond Lil's, Provo
Dragon Garden, Park City
El Chalan, Salt Lake City
Gridiron Sports Grill, St. George
Kokopelli, Monticello
Kokopelli @ Shilo Inn, Salt Lake City
Matilda's Fair Dinkum Aussie Outpost, Sandy
Mi Mexico, Ogden
Montagne Kitchen, Park City
Nuevo Vallarta, Salt Lake City
Panama Grill, St. George
Partner's Getaway, Parowan
Rhino Grill, Murray
Sizzler, Layton
Star of India, Salt Lake City

Stonebridge Café, West Valley City
Tomatillo, Holladay

PRIVATE CLUBS (18)

Beach House, Ogden
Cactus Creek, Ogden
Club DV8, Salt Lake City
Club Rio, Moab
Club Royale @ Brian Head, Brian Head
Crack'd Pot, Vernal
Crazy Horse Saloon, Moab
Da Phat Squirrel, Salt Lake City
Eagles 3951, Hurricane
Ground Zero, Orem
Helper Club, Helper
Kokopelli Lounge, Salt Lake City
Lakota Restaurant & Bar, Salt Lake City
Lazy Moon Pub, Salt Lake City
Milla's Club, Sandy
Partners, Parowan
Triangle Lounge, Mt. Pleasant
West Ridge, Midvale

ON PREMISE BEER (8)

Davis Golf Course Café, Fruit Heights
Laugh's Comedy Café, Ogden
Lin's Bottom up, Ogden
Mexico Tipico, Midvale
Office Lounge, Salt Lake City
Stoddard Inn, Stoddard
Tap Room, Salt Lake City
Venus Club, Tooele

Private Club Renewals

Renewals (mailed) 306
Non-renewals 9

Current number of licensees

Restaurant = 507
Private Clubs = 305
On-premise Beer = 480
Total = 1292

The Compliance Connection is published every four months by the State of Utah, Department of Alcoholic Beverage Control, P.O. Box 30408, Salt Lake City Ut, 84130-0408. Telephone: 801-977-6800, Fax: 801-977-6888, e-mail: abcmain.hotline@state.ut.us

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Violations and Penalties

by Chris Johnson

Below, and continued on the following pages, are the most recent violations and penalties assessed. Please review the violations listed below with your staff to prevent similar violations from occurring in your own establishment. As you can see by the number of alcoholic violations listed, law enforcement agencies have been very active. **PLEASE BE CAREFUL!!**

AL = Airport Lounge BE = On-premise Beer BR = Brewer / Importer BW = Beer Wholesaler CL = Private Club Liquor
RE = Restaurant Liquor MR = Manufacturer Representative * = Prior Violation History > = Taken to formal hearing

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
CL	Cactus Creek, Ogden and Patrick McLane (employee)	1. Non-Member entry & sale 2. Serving "doubles" 3. Free-Pouring	Surrender of its private club license plus costs of \$145.00 when/if anyone in organization reapplies Employee: Dismissed without prejudice
RE	Chili's, (Orem) and Sally Skidmore (employee)	1. Sale to minor	1. 5 day suspension plus costs of \$90.00 Employee: 5 day suspension
CL	City Slicker's, Sandy, and Julie Williams and "Celeste" (employees)	2 cases Case #1 1. Non-member entry & sale 2. Employee guest hosting Case #2 1. Discounting drinks 2. Price lists visible to passers-by	Case #1: 1. Fine of \$300.00 2. Fine of \$300.00 plus costs of \$180.00 Hearing will be held on two remaining counts Employees: Both employees will receive written warnings. Case #2: 1. Dismissed 2. Fine of \$100.00
CL	Partners, Parowan, and Kathleen Van Bushkirk (employee)	1. Sale to intoxicated 2. Sale to minor	1 & 2. Surrender of private club license plus costs of \$325.00 Employee: Will be adjudicated separately
RE	Red Lobster, Orem and Joseph Salazar (employee)	1. Sale to minor	1. Fine of \$3,000.00 plus costs of \$90.00
RE	Stuart Anderson's Black Angus, Orem and Amber Pionke (employee)	1. Sale to minor	1. 5 day suspension plus costs of \$100.00 Employee: 5 day suspension
CL	Trapp, Salt Lake and Joe W. Redburn (President & Manager)	1. Allowing a person on the premises to perform or simulate sexual acts	1. 11 day suspension plus costs of \$145.00 Employee: 10 day suspension
CL	Crack'd Pot, Vernal and Jerry Haslam and Amber Olsen (employees)	1. Non-member entry & sale 2. Free-Pouring 3. Sale to intoxicated	1. Fine of \$250.00 plus costs of \$200.00 2. 5 day suspension and a fine of \$350.00 3. 7 day suspension Employees: Jerry Haslam: Written warning Amber Olsen: 5 day suspension
CL	Point After, Murray	1. Sale to minor 2. Allowing customers to leave with open containers 3. No license displayed 4. Flavoring bottles not marked 5. Non-member entry & sale	1. 7 day suspension 2. 6 day suspension 3. Written warning 4. Fine of \$600.00 5. Fine of \$250.00 plus costs
CL	West Ridge, and Steven Liebroder, Sabrina Bueno, & Cheri Bouska (employees)	2 cases Case #1 1. Employees consuming of duty 2. Employee under the influence of Alcoholic Beverage(s) Case #2 1. Sale to intoxicated	<u>Licensee:</u> 5 day suspension, fine of \$1,000.00, and surrender its private club license <u>Employee:</u> Steven Liebroder: 10 day suspension Sabrina Bueno & Cheri Bouska: Dismissed without prejudice
BE	Sue's Lounge, Ogden and Teri Blackwell (employee)	1. Sale to a minor 2. Minor on the premise of a tavern	<u>Licensee:</u> 1 & 2. 11 day suspension plus costs <u>Employee:</u> 5 day suspension

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RE	TGI Friday's, Salt Lake City	1. Buying Alcoholic Beverage(s) for a patron	1. Written warning
CL	Cisero's Club, Park City	1. Brown bagging 2. Discounting mixed drinks 3. Non-member entry & sale 4. Referencing availability of alcoholic beverages	1. Fine of \$500.00 plus costs 2. Fine of \$250.00 3. Fine of \$600.00 4. Dismissed
BE	SLC Int'l Airport, Salt Lake and Horisio Dionis Rivera-Verdago, Michael Shawn (Costello) McArdle & Oralia Lope-Ceja (employees)	1. Sale to minors 2. Minor selling to minors	1. 11 day suspension 2. 10 day suspension Employees: Dismissed without prejudice
RE	Cisero's Resaturant, Park City and Jennifer Bills (employee)	1. Allowing alcoholic beverages to be removed from the premises	1. Fine of \$500.00 plus costs Employee: Dismissed
BE	Wasatch Brew Pub, Salt Lake and Layne Edwards (employee)	1. Sale to minor	1. Fine of \$3,000.00 plus costs Employee: Dismissed without prejudice

We've been asked... Can I Add Sales Tax to Liquor?



by Neil Cohen

We are often asked this question. Last summer we wrote an article about this and for the benefit of all the new licensees, we are revisiting this "taxing issue".

When you, the restaurant, club, or airport lounge licensee, buy liquor from the DABC, the price includes the sales tax. So when you sell a mixed drink, heavy beer, bottle of wine, or wine by the glass, the portion cost (of the 1 ounce of liquor, 5 ounces or bottle of wine, or bottle of heavy beer) that is included in the price of the drink, already includes the sales tax.

You have two options: 1) you may *add* sales tax to the set up or corkage portion of the drink price (not so easy to do), or 2) you can price the drink to include all taxes and program your cash registers *not* to add any additional tax (much easier to do).

Most licensees find it too cumbersome to calculate the liquor cost portion of the selling price and program the cash registers to add tax to the set-up part. This is because the liquor cost portion (prices in the liquor stores) may change each month.

It is perfectly acceptable to ring up your drink sales "tax inclusive" (not unlike a small coke at the movie theater being \$2.50 instead of \$2.66). You, the business person, would still have to *pay* sales tax on the set-up part, but you will have *collected* the tax in the inclusive selling price from the customer.

Calculating how much sales tax to pay: On your

quarterly sales tax return, add up your gross receipts and subtract your cost of liquor. The remainder is net taxable receipts. The cost of liquor is exempt from sales tax because you *already paid* the sales tax when you bought the liquor at the state store. You then calculate the sales tax due on the net receipts and pay it to the tax commission.

More and more of our sophisticated consumers know this, so if you charge tax on the *total price*, you are overcharging the customer and exposing yourself to a number of problems, not the least of which is getting complaints from the public.

Now in the case of 3.2%

beer, you *do* buy that wholesale. Your options for adding tax or including tax in the selling price are the same, but you need to pay the tax on the *entire* selling price. You cannot subtract the cost of beer because you didn't pay

sales tax when you bought the beer from the wholesale distributor.

Well, if you understand all of that, there is one more wrinkle! And that is the one percent tourism tax. This tax is not imposed in all counties. But where it is, you have to pay the one percent tax on *all* of your gross food and beverage receipts (this is also called the "Restaurant Tax"). You may not subtract out the cost of liquor, **BUT** you *may* subtract out the SALES TAX you have paid on liquor **BEFORE** you calculate the one percent tourism tax. This may save you a few dollars.

You can call us at 801-977-6800 or you can call the tax commission at 801-297-2200 if you have any questions.£

The cost of liquor is exempt from sales tax because you already paid the sales tax when you bought the liquor at the state store.

Fake I.D.?

By John Bryant

During my liquor law training sessions with licensees, I am often asked the question: "What should I do with a driver's license that I know is fake?" According to the state liquor law enforcement bureau, if you know that the license is **fake**, you should confiscate it and turn it over to your local police or sheriff's department. If a customer contends that the license is not fake, tell them that they will have to discuss it with the law enforcement agency, and if it is proved to be valid, they can retrieve their license from that agency.

If customers show you their own **valid** driver's license, and it shows that they are underage to purchase alcoholic beverages, you should give them their license back and inform them that you cannot serve them an



alcoholic beverage. (This of course does not preclude the filing of charges against the minor for attempting to purchase alcohol. And if the minor is at least 13 years old, but under 18, and is found by a court to have unlawfully attempted to purchase alcohol, the judge may suspend the minor's driving privileges for up to 90 days.

On a second offense, the minor's license must be suspended for a period of six months, and on a third offense, it must be suspended for one year.)

Unfortunately, a Vermont store owner, whose story is reprinted here with permission from *State Capitals Newsletter*, not only confiscated a **valid** driver's license, but destroyed it, and got into trouble for doing so.

Vermont Store Owner Runs Afoul of Law While Trying to Stop Teen From Buying Liquor

Underhill Country Store owner Dale Kowalewski thought he was doing a good thing by cutting up the drivers' license of an underage youth who tried to buy cigarettes. Kowalewski told one of his clerks that with his license cut up, the boy wouldn't be able to use it at the next store down the road.

But it turns out the boy was working for the Vermont Department of Liquor Control, which was doing a sting, looking for store owners who sell to minors. Now Kowalewski could face criminal charges that he destroyed the youth's private property.

Kowalewski and his wife, Monika Fout-Kowalewski, are outraged that he might end up with a criminal record for trying to keep

someone from illegally buying cigarettes. Kowalewski, who grew up in Oregon, said he comes from a small community where neighbors looked out after each others' children to make sure they weren't getting into trouble.

"You do what you can to stop a kid from doing the wrong thing," he said last week while cutting meat behind the deli counter. "Unfortunately, the method I used was technically illegal. But does that make it wrong?"

Yes it does, says Bill Goggins, chief investigator with the Department of Liquor Control.

A driver's license, even a fake one, is private property. Store owners and bartenders are not allowed to confiscate a piece of identification, and they are certainly

not allowed to destroy it, Goggins said.

The best they can do is hold the license while they call the police and see whether the young person is game enough to stick around until an officer arrives.

Goggins said he plans to contact the Chittenden County State's Attorney's Office this week about the incident.

"I think it should be addressed in some manner," he said. "It's private property. You're not allowed to take that."

Meanwhile, Goggins is investigating the Kowalewskis' claim that the liquor investigator in the sting came into the store and berated Kowalewski and a customer who was defending him.É

The Utah Department of Health has asked us to let our licensees know about their web site specifically devoted to the Clean Air Act. Go to www.tobaccofreeutah.org and click on the environmental tobacco smoke icon.

From The Mailbag...



Thomas H. Thompson

Sincerely yours,

done.

I don't need a response to this letter. It's just my way of saying "thanks" for a job well

with grace and good common sense.

I know that some of us, at least, believe the Commission has performed this difficult task much or too little to regulate the dispensing of alcohol. So I thought I should just let you every week. It seems you are publicly criticized by someone who thinks you do too who would ban alcohol altogether, and those who want no real controls at all. Almost have managed to walk the fine and sometimes perilous line between those in our state inconvenienced by our state policies. You and the other members of the Commission fairly regular drinker. I do not recall even a single occasion where I have been seriously overseeing the marketing and sale of alcoholic beverages in our state. While I am a now appreciative I am of the way the Commission has gone about the difficult task of having now lived in Salt Lake City, Utah for more than 30 years. I want you to know

Dear Mr. Hales:

Salt Lake City, Utah 84104
1822 South 800 West
Alcoholic Beverage and Control Commission
Chairman
Mr. Nicholas Hales

August 7, 2001

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